

REMARKS

In the Office Action mailed July 23, 2004, claims 1-4 and 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ross, et al. (U.S. Patent No. 5,318,543) in view of Dutchik (U.S. Patent No. 5,590,778) and Fischer (U.S. Patent No. 5,289,919).

Claims 5-7 and 11-21 were indicated as allowed in the Office Action of July 23, 2004.

To establish *prima facie* obviousness, all of the claim limitations must be taught or suggested by the prior art. Applicants respectfully submit that claim 1 defines over the combination of Ross, et al. in view of Dutchik and Fischer. Respectfully, the combination of references does not disclose a kit that includes a container in which at least two different types of accessory articles are retained in the interior space of the container and in which the container is adapted to be reclosable so that the accessory articles after use are capable of being retained in the interior space prior to disposal. Support for the amendments to claim 1 may be found on at least Page 3, ll. 11-16 and on at least Page 8, l. 24 to Page 9, l. 1 of the specification and in at least Figure 6 of the drawings.

Ross, et al. does not disclose a container that includes a lid and a base. Ross, et al. does disclose a sealed pouch 20 that holds 5 T-fastener assemblies 19. As shown in Figures 2 and 3 of Ross, et al., the T-fastener assemblies 19 are identical to one another.

Fischer discloses a dental kit that is color-coded to allow for visual identification of various dental components stored in the kit such as delivery tips

20a-20f that are different sizes and/or types (see Fischer at Col. 3, ll. 44-45 and Col. 4, ll. 31-36). A plurality of canisters 38a-38f are included and hold a plurality of the delivery tips 20 that are of a specific size or type (see Fischer at Col. 4, ll. 48-50). Each canister 38 is made of a color that matches the color of the delivery tip 20 contained therein (see Fischer at Col. 4, ll. 51-53). This type of color coordination ensures easy identification of the size and/or type of delivery tip 20 when needed by a user (see Fischer at Col. 4, ll. 53-55). The canisters 38a-38f of Fischer are made exclusively in order to hold a single type and/or size of delivery tip 20. Placement of different sizes and/or types of delivery tips into the same container would confuse the user because one would not know which delivery tip the canister was meant to identify. Delivery tips 20 of different sizes or types are not placed within the same canister 38 because doing so would completely frustrate the intended purpose of Fischer which is to provide for easy identification of different sizes and/or types of delivery tips 20. As such, Fischer is explicitly directed towards a design in which each canister 38 holds only a single type or size of delivery tip 20 and does not hold any other component therein.

Dutchik is directed towards double-sterile packaging for a medical apparatus (see Dutchik at Col. 1, ll. 10-11). A pair of closure sheets 36 and 54 are heat sealed to tray-like member 16 and outer tray member 52 (see Dutchik at Col. 7, ll. 31-35; and Col. 8, ll. 23-30). In order to open the package, a user will grasp a portion of the sheets 54 and 36 and apply force thereto in order to break

their respective heat seals and effect opening. Due to the fact the sheets 54 and 36 are heat-sealed, the sheets are not reclosable after opening.

As with Ross, et al. and Fischer, Dutchik discloses a tray-like member 16 in which only a single medical apparatus 12 is contained (see Dutchik at Col. 7, ll. 3-6). The medical apparatus 12 in Dutchik is a flexible elongate catheter 20 that includes a purging syringe 24 (see Dutchik at Col. 7, ll. 7-11). Inasmuch as the tray-like member 16 can be called a container, Dutchik discloses only a single type of medical apparatus 12 located in the tray-like member 16 (container) in exactly the same way as Fischer and Ross, et al. each also disclose only a single type of medical apparatus housed in a container within the kit.

Incorporation of the kits of Dutchik and Fischer into the kit of Ross, et al. would result in a container that houses only a single type of medical apparatus. All three of these references are specifically directed towards a container that holds only a single type of medical apparatus. Fischer is explicitly directed towards a dental kit in which the canisters 38 are color-coded in order to ensure that a user is able to identify a particular type or size of medical article, and any type of remodification of Fischer so that two or more types of medical articles are stored in a single canister 38 would completely frustrate the intended purpose of Fischer.

Claim 1 of Applicants' application calls for a kit in which at least two different types of accessory articles are retained in the interior space of the container. Claim 1 also calls for the container to be adapted to be reclosable so

that the accessory articles after use are capable of being retained in the interior space prior to disposal. The structure called for in claim 1 of Applicants' application is not disclosed in the combination of Ross, et al., Fischer, and Dutchik and is in fact completely opposite from the resulting kit produced by the combination of these three references. As stated, the combination of references does not disclose a container in which at least two different types of accessory articles are retained therein. All of the references disclose only a single medical article in the container, and the combination of references specifically teaches against having at least two different types of accessory articles retained in the container of the kit.

Still further, Dutchik is specifically directed towards heat-sealing of the closure sheets 54 and 36 because such a method of attachment is necessary in order to ensure the contents of the package remain sterile (see Dutchik at Col. 7, ll. 38-42). As such, the tray-like member 16 in Dutchik is not reclosable. Therefore, any combination of Dutchik into either Fischer or Ross, et al. would produce a resulting device that would not be reclosable. Claim 1 of Applicants' application specifically calls for a container that is adapted to be reclosable. This type of structure allows the accessory articles, after use, to be placed into the interior space prior to disposal. This type of structure is not disclosed or rendered obvious by any of the references either individually or in combination with one another.

Applicants' respectfully submit that claim 1 defines over the combination of Ross, et al., Fischer, and Dutchik and is in condition for allowance. Also, all

claims that depend from claim 1 (claims 2-4, 6 and 8-10) are also in condition for allowance. The rejections to claims 2-4, 6 and 8-10 are made moot due to the allowance of claim 1.

Applicants respectfully submit that all pending claims are allowable and that the application is in condition for allowance. Favorable action thereon is respectfully requested. The Examiner is encouraged to contact the undersigned at the Examiner's convenience to resolve any remaining issues.

Respectfully submitted,

DORITY & MANNING,
ATTORNEYS AT LAW, P.A.



Neal P. Pierotti
Reg. No. 45,716

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P.O. Box 1449
Greenville, SC 29602-1449
Telephone: (864) 271-1592
Facsimile: (864) 233-7342